



**Rule and Interpretive/Policy Statement Review Checklist**  
(This form must be filled out electronically.)

**This form is to be used when the current version of the rule(s) has/have not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.**

All responses should be **bolded**.

Document(s) Reviewed (include title): **ETA 573.94.224 Sales of Drawings and Plans**

Date last adopted/issued: **January 31, 1996**

Reviewer: **JoAnne Gordon**

Date review completed: **July 30, 2002**

Briefly explain the subject matter of the document(s): **ETA 573 provides guidance to persons performing design service, architectural, and engineering services. The primary focus of this document is to clarify the circumstances under which copies of drawings/plans provided to customers are considered a tangible representation of the professional service being performed, or are themselves considered tangible personal property separate from the professional service. The document also explains that consultation charges are subject to service and other activities B&O tax and notes that 1993 legislation established a new B&O tax rate for certain selected business activities.**

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

**1. Public requests for review:**

YES	NO	
	<b>X</b>	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

**2. Need:**

YES	NO	
<b>X</b>		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	<b>X</b>	Is the information provided in the document so obsolete that it is of little value, warranting the repeal or revision of the document?



	<b>X</b>	Have the laws changed so that the document should be revised or repealed? (If the response is "yes" that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)
<b>X</b>		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens? (If the response is "no", the recommendation must be to repeal the document.)

Please explain.

**The information provided in this document is not elsewhere provided in a document issued by the Department.**

**While the selected business B&O tax classification/rate has since been repealed, this tax classification is of only minor importance compared to the balance of the information provided in this document. The reviewer is unaware of any confusion as to the fact that service and other activities B&O tax currently applies to income derived from design, architectural, or engineering services (at least those outside the scope of services rendered in respect to constructing as contemplated in RCW 82.04.051).**

**3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:**

Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an interpretive or policy statement. Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.

**(a)**

<b>YES</b>	<b>NO</b>	
		Are there any interpretive or policy statements that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
		Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

**(b)**

<b>YES</b>	<b>NO</b>	
<b>X</b>		Should this interpretive or policy statement be incorporated into a rule?
	<b>X</b>	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document?



	<b>X</b>	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?
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If the answer is “yes” to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

**The information clarifying the circumstances under which copies of drawings/plans are considered a tangible representation of the professional service being performed or tangible personal property separate from the professional service should, at some future date, be incorporated into an appropriate rule. Candidates include WAC 458-20-138 (Personal services rendered to others) and WAC 458-20-170 (Constructing . . . new or existing buildings . . . ). However, there is no need to incorporate or update this information at this time.**

#### 4. Clarity and Effectiveness:

YES	NO	
<b>X</b>		Is the document written and organized in a clear and concise manner?
	<b>X</b>	Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
<b>X</b>		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities or help ensure that the tax law and/or exemptions are consistently applied?)
	<b>X</b>	Do changes in industry practices warrant repealing or revising this document?
	<b>X</b>	Do administrative changes within the Department warrant repealing or revising this document?

Please explain.

**The information is clear, concise, and providing the results originally intended. As noted above, however, this document does not recognize that the selected business services B&O tax classification/rate has been repealed.**

#### 5. Intent and Statutory Authority:

YES	NO	
<b>X</b>		Does the Department have sufficient authority <b>to adopt</b> this document? (Cite the statutory authority in the explanation below.)
<b>X</b>		Is the document consistent with the legislative intent of the statute(s) that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed <b>to implement</b> ?) If “no,” identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	<b>X</b>	Is there a need to recommend legislative changes to the statute(s) being implemented by this document?



Please explain.

**RCW 34.05.230 encourages state agencies to advise the public of current opinions and approaches through interpretive and policy statements (e.g., ETAs).**

**The document is substantially consistent with the legislative intent of the statutes that it implements.**

**6. Coordination:** Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.

**The Department is responsible for administering the tax law in the situations addressed in these documents.**

**7. Cost:** When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer "yes" only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain.

**This is an interpretive statement that does not impose administrative burdens on taxpayers that are not already imposed by law.**

**8. Fairness:** When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.



**9. LISTING OF DOCUMENTS REVIEWED:** Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented: **To the extent the following apply to copies of drawings/plans provided by designers, architects, and engineers.**

- **RCW 82.04.050 “Sale at retail,” “retail sale”;**
- **RCW 82.04.220 Business and occupation tax imposed;**
- **RCW 82.04.250 Tax on retailers;**
- **RCW 82.04.290 Tax on . . . other business or service activities; and**
- **RCW 82.08.020 Tax imposes—Retail sales . . . .**

Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs):

Court Decisions:

Board of Tax Appeals Decisions (BTAs):

Appeal Division Decisions (WTDs):

Attorney General Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

## **10. Review Recommendation:**

- |                     |   |
|---------------------|---|
| <u>      </u>       | <b>Amend</b>  |
| <u>      </u>       | <b>Repeal/Cancel</b> (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.) |
| <u>  <b>X</b>  </u> | <b>Leave as is</b> (Appropriate even if the recommendation is to incorporate the current information into another rule.)                              |
| <u>      </u>       | <b>Begin the rule-making process for possible revision.</b> (Applies only when the Department has received a petition to revise a rule.)              |

**Explanation of recommendation:** Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, and court decisions); or



- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, and court decisions).

**While this information should at some future date be incorporated into a rule, there is no need to do so at this time. The document can be retained until a suitable rule (e.g., Rule 138 or 170) is otherwise being revised.**

**11. Manager action:** Date: \_\_\_\_\_

\_\_\_\_\_ Reviewed and accepted recommendation

Amendment priority:

\_\_\_\_\_ 1  
\_\_\_\_\_ 2  
\_\_\_\_\_ 3  
\_\_\_\_\_ 4